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Attorneys for Plaintiff  
FALCO ERMERT

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

FALCO ERMERT,

Plaintiff,

v.

MODERNLY INC., JOSE ANTONIO  
CHAVEZ, and MARGARITA ARAMBULA  
CANO,

Defendants.

**Case No.:**

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT (INJUNCTIVE RELIEF  
DEMANDED)**

**Demand for Jury Trial**

Plaintiff FALCO ERMERT by and through his undersigned counsel, brings this Complaint against Defendants MODERNLY INC., JOSE ANTONIO CHAVEZ, and MARGARITA ARAMBULA CANO for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff FALCO ERMERT (“Ermert”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Ermert's original copyrighted work of authorship.

2. Ermert is a German journalist and photographer. During his studies at the University of Cologne, he worked as a photographer in the field of reporting and events. Ermert continues to

work for magazines, photographs personal projects, and conducts workshops. Ermert uses a professional DJI drone and Nikon D5500 +DF for his editorial, travel, and commercial assignments throughout Europe and beyond.

3. Defendant MODERNLY INC. (“Modernly”) is a real estate team consisting of Margarita Arambula Cano aka Maggie Cano and Jose Anthony Chavez aka Tony Chavez, serving the Central Valley of California. In addition to buying and selling homes, Modernly offers professional photography, staging services, and the latest technology and marketing tools, including the use of social media and the popular search engines, Zillow, Realtor, Trulia and the MLS. Upon information and belief, at all times relevant herein, Modernly owned and operated the internet website located at the URL [www.maggiecanorealtor.com](http://www.maggiecanorealtor.com) (the “Website”).

4. Defendant JOSE ANTONIO CHAVEZ aka Tony Chavez (“Chavez”) is co-owner and the CEO of Modernly.

5. Defendant MARGARITA ARAMBULA CANO aka Maggie Cano (“Cano”) is co-owner of Modernly.

6. Defendants Modernly, Chavez, and Cano are collectively referred to herein as “Defendants.”

7. Ermert alleges that Defendants copied Ermert's copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants’ business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants’ business.

### **JURISDICTION AND VENUE**

8. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

9. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

10. Defendants are subject to personal jurisdiction in California.

11. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in

1 infringement in this district, Defendants reside in this district, and Defendants are subject to personal  
2 jurisdiction in this district.

3  
4 **DEFENDANTS**

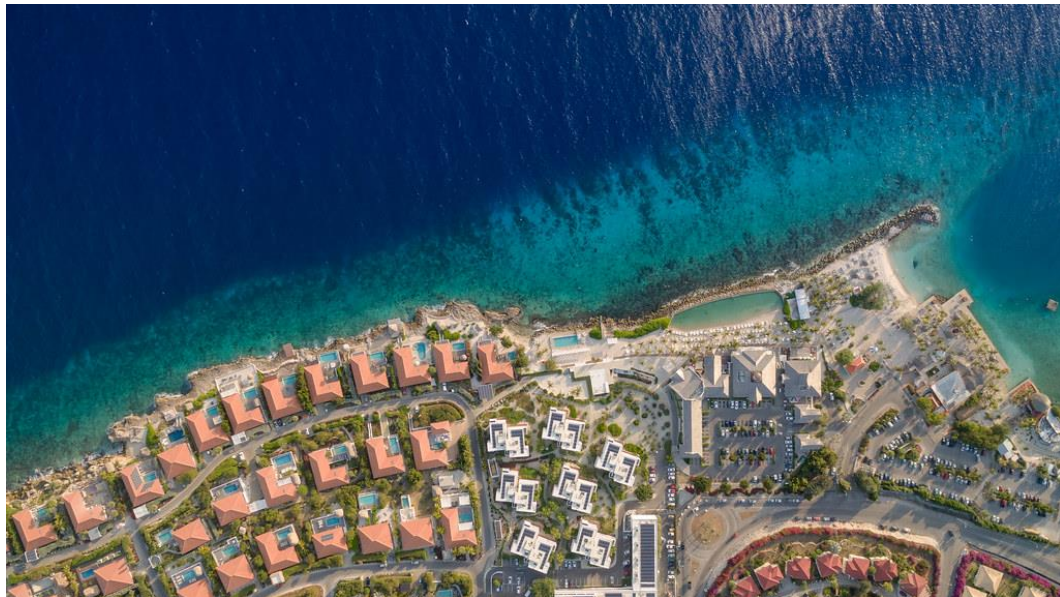
5 12. Modernly Inc. is a California Corporation, with its principal place of business at  
6 2512 West Locust Avenue, Fresno, CA 93711, and can be served by serving its Registered Agent,  
7 Mr. Jose Chavez, at the same address.

8 13. Jose Antonio Chavez is an individual residing in San Joaquin County, California and  
9 can be served at 190 South Veracruz Place, Tracy, California, 95391

10 14. Margarita Arambula Cano is an individual residing in San Joaquin County,  
11 California, and can be served at 190 South Veracruz Place, Tracy, California, 95391.

12 **THE COPYRIGHTED WORK AT ISSUE**

13 15. In 2017, Ermert created the photograph entitled “Jan-Thiel-Curacao,” which is shown  
14 below and referred to herein as the “Work”.





**COUNT I  
COPYRIGHT INFRINGEMENT**

28. Ermert incorporates the allegations of paragraphs 1 through 27 of this Complaint as if fully set forth herein.

29. Ermert owns a valid copyright in the Work at issue in this case.

30. Ermert registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

31. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Ermert's authorization in violation of 17 U.S.C. § 501.

32. Defendants performed the acts alleged in the course and scope of its business activities.

33. Defendants' acts were willful.

34. Ermert has been damaged.

35. The harm caused to Ermert has been irreparable.

WHEREFORE, the Plaintiff Falco Ermert prays for judgment against the Defendants Modernly Inc., Jose Antonio Chavez, and Margarita Arambula Cano that:

a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff his actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

d. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

e. Plaintiff be awarded pre- and post-judgment interest; and

f. Plaintiff be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff Falco Ermert hereby demands a trial by jury of all issues so triable.

DATED: July 12, 2023

Respectfully submitted,

*/s/ Jonah A. Grossbardt*

JONAH A. GROSSBARDT

MATTHEW L. ROLLIN

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*Attorneys for Plaintiff Falco Ermert*